










- 1  **Regulation of Program Content in Electronic Media -**
 - Rationales for controlling content
 - Scarcity - ownership and public service obligations
 - Pervasiveness - content
 - Key areas of concern:
 - Political programming
 - New & Public Affairs
 - Children's programming
 - Violence
 - Indecency
 - Challenges of new technologies:
 - Cable television
 - Satellite Radio
- 2  **Scarcity**
 - Based on a comparison between print and broadcast. Physical scarcity.
 - Airwaves owned by the public
 - PICON
 - Portland DMA example
 - Where is the real scarcity?
- 3  **Fairness Doctrine (dep 1987)**
 - Rooted in a traditional reading of PICON
 - Broadcasters obligated to cover controversial issues of public importance and encourage the presentation of a variety of views on these questions
 - Personal Attack Rule (dep. 2000)
 - Political Editorial Rule (dep. 2000)
 - All gone now because of a market based reading of PICON
 - The public interest is that in which the public is interested. And this is measured how?
- 4  **Political Broadcasting**
 - [Amazing revenue source for broadcasters!](#)
 - Political Candidate Rules Sec. 312 (a)(7) 1971 (mandates "access" for qualified candidates)
 - What is reasonable access?

- What is a qualified candidate?
 - What is an acceptable timeframe for candidacy?
- 5 
 - Equal Opportunity/Equal Time Rule (Sec. 315 of the 1934 Communications Act).
 - News exception
 - Note that this was not eliminated and has been around from the beginning. Who's interest does this serve?
 - Issue exception (e.g. bond issues)
 - MoveOn.org ad and the Superbowl
- 6  **Pervasiveness**
 - Intrusive nature of over-the-air broadcasting
 - Unique influence the medium exercises over the audience.
 - Broadcast television unscrambled and v-chip of limited value in practice
 - With radio, can't avert ears.
 - Rationale for indecency regulation
- 7  **Other areas of FCC content regulation**
 - Broadcast radio station format?
 - Children's programming
 - Violence on Television
 - VNR's
 - Indecency (will return to this)
- 8  **What can the FCC do?**
 - No power of censorship! (straight from the 1934 Communications Act)
 - Escalating penalties:
 - Letter of Admonition
 - Cease and Desist Order
 - Forfeiture
 - Short term license renewal
 - License revocation
- 9  **Other technologies subject to the FCC**
 - Satellite Radio

- Regulation is technological not content based.
- Cable Television
 - 1984 Cable Television Act
 - 1992 Cable Television Consumer Protection and Competition Act
 - 1996 Telecommunications Act
 - Indecency on cable TV
- Satellite Radio

10  **Indecency**

- Indecent material not protected in broadcasting
- Pacifica decision
- Criteria:
 - Language must fall within scope of indecency describe sexual or excretory activities and
 - be patently offensive as measure be contemporary community standards)
- Safe Harbor Hours
- Context used to be very important
- Janet Jackson, Bono, Paris Hilton, Fox v. FCC
- Clean Airwaves Act. HR 3687

11  **Next up....**

- Parceling out indecency, pornography and obscenity.
- Google and read what you can about Brian Dalton (not the guy on IMDB.com, but the convicted child pornographer).
- I will ask you what you think is the difference between indecency, pornography and obscenity.